

REMARKS

Reconsideration and allowance of this application are respectfully requested in light of the following remarks.

An Information Disclosure Statement was filed on January 13, 2003, but no return initialed copy of the associated PTO-1449 has been provided. The Examiner is kindly requested to provide an initialed copy of the PTO-1449 to the undersigned by facsimile. A courtesy copy thereof is enclosed.

The Office Action reiterates the rejection of claims 31-35 under 35 USC 102(b) as anticipated by Mahany et al. The Applicants respectfully traverse.

Amended claims 31 and 33 state that the reception circuitry does not receive any indication of transmission rate based on the received quality measured at the communication terminal. Amended claim 35 states that the transmission circuitry of the communication terminal does not transmit a transmission rate based on the received quality measured at the communication terminal.

In contrast to the presently amended claims, Mahany's reception circuitry at the base station receives a rate indication signal that is transmitted by the mobile station.

More particularly, Mahany discloses a base station that maintains communications with mobile units using a polling protocol allowing communication at a high or low data rate, depending on

channel conditions. The base station transmits a general polling message at the low data rate, and, associated therewith, transmits a test pattern. The mobile units analyze the test pattern, and, based on their analysis, the mobile units select the appropriate data rate and transmit an indication thereof to the base station.

As described at col. 14, line 67 et seq., col. 21 line 60 et seq. and shown in Fig. 12, the mobile station derives a signal quality indication of the test signal from the base station for use in making the data rate selection decision, then switches to transmit at the standard rate, and communicates its data rate selection to the initiating unit. The mobile unit then switches to receive at the data rate which it has selected. The base station, upon receipt of the return handshake, switches to transmit its message at the data rate selected by the mobile unit.

From the above, it is apparent that Mahany discloses a system wherein a mobile station evaluates the test pattern and transmits its data rate selection decision to the base station.

This is not at all like the present claimed invention wherein reception circuitry of a transmission rate control apparatus (e.g. in a base station apparatus (claim 33)) receives a received quality measured at a communication terminal (e.g. mobile station) without receiving any indication of transmission rate based on the received quality, and transmission rate control circuitry changes a

transmission rate to the communication terminal based on the received quality, and decreases the transmission rate when the received quality at a side of the communication terminal deteriorates.

For example, present claim 33 defines a base station having a transmission rate control apparatus that receives a received quality measured at a communication terminal without receiving any indication of transmission rate based on the received quality and, based on the received measured quality, changes the data rate. In contrast, Mahany describes a mobile station that decides the data rate and a base station that receives a data rate selection decision signal from the communication terminal.

In other words, the present claims call for the transmission rate control apparatus to receive a received quality measured at a communication terminal without receiving any indication of transmission rate based on the received quality, whereas, in Mahany, the first station (e.g. base station) receives a rate indication signal indicating a rate selection decision already made at the second station (e.g. mobile station) based on received signal quality or strength.

In Mahany, the mobile station makes the measurement and decides the rate, and the base station does not determine or decide

the rate but merely responds to the rate already selected by the second station.

In contrast, in the present claimed invention, the communication terminal measures the received quality, and the rate control apparatus receives the measured received quality from the communication terminal without receiving any indication of transmission rate based on the received quality and changes the rate based thereon.

From the above and the arguments presented in the previous Responses (which are reiterated by reference herein), it is submitted that an anticipation rejection based on Mahany is clearly unwarranted.

Accordingly, it is submitted that the 35 USC 102 rejection of claims 31-34 over Mahany should be withdrawn.

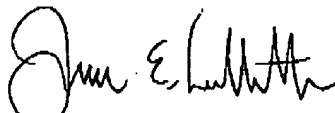
Furthermore, it is submitted that Mahany fails to teach the subject matter of claim 35 which recites a communication terminal apparatus comprising monitor circuitry that monitors a received quality, judgment circuitry that judges whether the received quality deteriorates, and transmission circuitry that transmits the received quality at a timing at which the judgment circuitry judges that the received quality deteriorates.

For at least the above reasons, it is submitted that the 35 USC 102 rejection of claim 35 over Mahany should be withdrawn.

In light of the foregoing, it is submitted that this application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,



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Date: December 18, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application

Inventors: Toyoki UE et al. Prior Art Unit 2684
Serial No.: 10/057,897 Prior Examiner A. Gantt
Filed: January 29, 2002
For: RADIO COMMUNICATION DEVICE AND METHOD OF CONTROLLING
TRANSMISSION RATE

CERTIFICATION UNDER 37 CFR §1.97(e) (1)

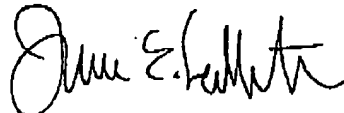
Assistant Commissioner of Patents
Washington, DC 20231

COPY

Dear Sir:

In fulfillment of 37 CFR 1.97(c)(1) and 1.97(e)(1), it is hereby certified that each item of information contained in the attached Information Disclosure Statement was first cited in any communication (see the attached copy of a Japanese Office Action dated October 15, 2002) from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.

Respectfully submitted,



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Date: January 13, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventors: Toyoki UE et al.

Prior Art Unit 2684

Serial No.: 10/057,897

Prior Examiner A. Gantt

Filed: January 29, 2002

For: RADIO COMMUNICATION DEVICE AND METHOD OF CONTROLLING
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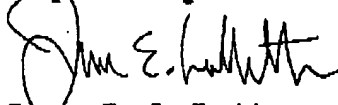
COPY

Dear Sir:

Pursuant to Rules 56 and 99, Applicants hereby call the attention of the Patent Office to the art listed on the attached Form PTO 1449. All of these references were cited in a Japanese Office Action dated October 15, 2002 (English translation attached). JP '231 is already of record filed January 29, 2002.

Applicants present this art so that the Patent Office may, in the first instance, determine any relevancy thereof to the presently claimed invention, see Beckman Instruments, Inc. v. Chemtronics, Inc., 439 F.2d 1369, 1380, 165 USPQ 355, 364 (5th Cir. 1970). Also see Patent Office Rules 104 and 106. Applicants respectfully request that this art be expressly considered during the prosecution of this application and made of record herein and appear among the "References Cited" on any patent to issue herefrom.

Respectfully submitted,

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